



*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

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Regional Director

**VIRGINIA WASTE MANAGEMENT BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
Rappahannock Regional Solid Waste Management Board  
FOR  
R-Board Sanitary Landfill  
Solid Waste Permit No. 589**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board and the Rappahannock Regional Solid Waste Management Board regarding the R-Board Sanitary Landfill, for the purpose of resolving violations of the Virginia Waste Management Act and the applicable permit and regulations.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

4. "Facility" or "Landfill" means the R-Board Sanitary Landfill, located at 489 Eskimo Hill Road in Stafford County, Virginia. The Facility is a sanitary landfill for citizens of Stafford County and the City of Fredericksburg is owned and operated by "R-Board."
5. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
6. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
7. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
8. "Permit" means Solid Waste Permit (SWP) No. 589, which was issued under the Virginia Waste Management Act and the Regulations to "R-Board" on July 16, 1996.
9. "R-Board" means the Rappahannock Regional Solid Waste Management Board, an authority created pursuant to the Virginia Water and Waste Authorities Act, Va. Code § 15.2-5100 *et seq.*, comprised of representatives from Stafford County and the City of Fredericksburg. "R-Board" is a "person" within the meaning of Va. Code § 10.1-1400.
10. "Regulations" or "VSWMR" means the Virginia Solid Waste Management Regulations, 9 VAC 20-81-10 *et seq.*
11. "Va. Code" means the Code of Virginia (1950), as amended.
12. "VAC" means the Virginia Administrative Code.
13. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 2 (Va. Code §§ 10.1-1408.1 through -1413.1) of the Virginia Waste Management Act addresses Solid Waste Management.
14. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. R-Board operates the Facility, which is a sanitary landfill.
2. Operations at the Facility are subject to the Virginia Waste Management Act, the Regulations, and the Permit.
3. During compliance inspections conducted on August 14, 2019, February 24, 2020, and August 12, 2020, DEQ staff observed erosion rills, exposed waste, and insufficient cover at select locations at the Facility.

4. 9 VAC 20-81-140.B.1.c states: "Daily cover consisting of at least six inches of compacted soil or other approved material shall be placed upon and maintained on all exposed solid waste prior to the end of each operating day, or at more frequent intervals if necessary, to control disease vectors, fires, odors, blowing litter, and scavenging."

In addition, 9 VAC 20-81-140.B.1.d states: "Intermediate cover of at least six inches of additional compacted soil shall be applied and maintained whenever an additional lift of refuse is not to be applied within 30 days. Further, all areas with intermediate cover exposed shall be inspected as needed, but not less than weekly. Additional cover material shall be placed on all cracked, eroded, and uneven areas as required to maintain the integrity of the intermediate cover system."

5. DEQ notified R-Board of the noncompliance via a Deficiency Letter sent August 23, 2019, and via a Warning Letter sent March 5, 2020.
6. R-Board responded to the Deficiency Letter on September 23, 2019, and responded to the Warning Letter on March 12, 2020. In each instance, R-Board provided documentation that the exposed waste observed by DEQ had been covered.
7. On August 12, 2020, DEQ again observed erosion rills and exposed waste when conducting an inspection of the Facility, resulting in DEQ's issuance of a Notice of Violation to R-Board on August 19, 2020.
8. On August 25, 2020, R-Board submitted a written response to the NOV, including photographic documentation of corrective measures taken to cover the exposed waste that was observed by DEQ staff during the inspection.
9. On September 16, 2020, DEQ staff had a conference call with representatives of R-Board to discuss the NOV, R-Board's NOV response, and enforcement proceedings.
10. Based on the results of the Facility inspections performed by DEQ staff, R-Board's submitted responses to the Deficiency Letter, Warning Letter and NOV, the September 16, 2020, virtual meeting, and related documentation corresponded between DEQ and representative of R-Board, the Board concludes that R-Board has violated 9 VAC 20-81-140.B.1. as described above in paragraphs C(1) through C(9).
11. On November 17, 2020, DEQ staff performed a follow-up inspection of the Facility and confirmed adequate resolution of the noncompliance, as DEQ staff observed sufficient daily and/or intermediate cover over waste areas, and erosion rills and/or areas of exposed waste were not identified.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders R-Board, and R-Board agrees to pay a civil charge of **\$11,375** within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

R-Board shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, R-Board shall be liable for attorneys' fees of 30% of the amount outstanding.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of R-Board for good cause shown by R-Board, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order, in the Warning Letter dated March 5, 2020, and in the Notice of Violation dated August 19, 2020. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, R-Board admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. R-Board consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. R-Board declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a

waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by R-Board to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. R-Board shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. R-Board shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. R-Board shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and R-Board. Nevertheless, R-Board agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:

- a. The Director or his designee terminates the Order after R-Board has completed all of the requirements of the Order;
- b. R-Board petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to R-Board.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve R-Board from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by R-Board and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of R-Board certifies that he or she is a responsible official or officer authorized to enter into the terms and conditions of this Order and to execute and legally bind R-Board to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of R-Board.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, R-Board voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 3<sup>rd</sup> day of August, 2021.



Thomas A. Faha, Regional Director  
Department of Environmental Quality

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The Rappahannock Regional Solid Waste Management Board voluntarily agrees to the issuance of this Order.

Date: 6-10-21 By: [Signature], Director  
(Person) (Title)  
Rappahannock Regional Solid Waste Management Board

Commonwealth of Virginia  
City/County of Stafford

The foregoing document was signed and acknowledged before me this 10 day of June, 2021, by Joe Buchanan who is Director of the Rappahannock Regional Solid Waste Management Board, on behalf of R-Board.

[Signature]  
Notary Public

7777372

Registration No.

My commission expires: 05-31-2022

Notary seal:

